



## **PENSION BENEFIT GUARANTY CORPORATION**

### **29 CFR Part 4908**

### **RIN 1212-AB52**

### **Rescission of Pension Benefit Guaranty Corporation Rule on Guidance**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule; rescission of regulations.

**SUMMARY:** On August 26, 2020, the Pension Benefit Guaranty Corporation (PBGC) published a final rule on guidance implementing an Executive order entitled “Promoting the Rule of Law Through Improved Agency Guidance Documents,” and providing policy and requirements for issuing, modifying, withdrawing, and using guidance; making guidance available to the public; a notice and comment process for significant guidance; and taking and responding to petitions about guidance. In accordance with the “Executive Order on Revocation of Certain Executive Orders Concerning Federal Regulation,” issued by President Biden on January 20, 2021, this final rule rescinds PBGC’s rule on guidance.

**DATES:** This final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Hilary Duke ([duke.hilary@pbgc.gov](mailto:duke.hilary@pbgc.gov)), Assistant General Counsel for Regulatory Affairs, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW, Washington DC 20005–4026; 202–229–3839. (TTY users may call the Federal Relay Service toll-free at 800–877–8339 and ask to be connected to 202–229–3839.)

### **SUPPLEMENTARY INFORMATION:**

#### **I. Discussion**

On August 26, 2020, the Pension Benefit Guaranty Corporation (PBGC) published a final rule on procedures for PBGC guidance documents implementing EO 13891, “Promoting the

Rule of Law Through Improved Agency Guidance Documents,” signed by President Trump on October 9, 2019. As required by the EO, this rule contained policy and requirements for issuing, modifying, withdrawing, and using guidance; making guidance available to the public; a notice and comment process for significant guidance; and taking and responding to petitions about guidance (85 FR 52481).

On January 20, 2021, President Biden issued EO 13992, “Revocation of Certain Executive Orders Concerning Federal Regulation” which, among other things, revoked EO 13891 and directed agencies to promptly take steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof, implementing or enforcing the Executive orders. In accordance with EO 13992, PBGC is issuing this final rule, which rescinds the rule on procedures for PBGC guidance documents published at 85 FR 52481.

## **II. Final Rule**

PBGC has determined that this rule is suitable for final rulemaking. The revisions to PBGC’s policies and requirements surrounding guidance are purely internal matters of agency management, as well as the agency’s organization, procedure, and practice. Accordingly, as with the August 2020 final rule, PBGC is not required to engage in a notice and comment process to issue this rule under the Administrative Procedure Act. See 5 U.S.C. 553(a)(2), 553(b)(A). Furthermore, because this rule is procedural rather than substantive, the normal requirement of 5 U.S.C. 553(d) that a rule not be effective until at least 30 days after publication in the Federal Register is inapplicable. PBGC also finds good cause to provide an immediate effective date for this rule because it imposes no obligations on parties outside the federal government and therefore no advance notice is required to enable employers or other private parties to come into compliance.

### **List of Subjects in 29 CFR Part 4908**

Administrative practice and procedure, Employee benefit plans, Organization and functions (Government agencies), Pension insurance.

**PART 4908 [REMOVED]**

For the reasons discussed in the preamble, and under the authority of section 4002(b)(3) of the Employee Retirement Income Security Act of 1974 (ERISA), which authorizes PBGC to issue regulations to carry out the purposes of title IV of ERISA, and EO 13992, PBGC amends title 29, chapter XL, subchapter L of the Code of Federal Regulations by removing part 4908.

Issued in Washington, DC, by:

**Gordon Hartogensis**

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[FR Doc. 2021-06734 Filed: 3/31/2021 8:45 am; Publication Date: 4/1/2021]